

Since the proceeding held before me on October 1, 2007, the grand jury has returned

indictment S-5. The new indictment makes no reference to serious bodily injury, and the indictment appears to be valid on its face. The return of S-5 thus calls into question the relevance of the proceedings leading to Indictment S-4. Moreover, grand jury proceedings enjoy a presumption of regularity, and a defendant's complaint about the quality or adequacy of evidence presented to a grand jury, or the failure to present exculpatory evidence to a grand jury, are not proper bases for judicial review of a facially valid indictment. *See United States v. Williams*, 504 U.S. 36, 54-55, 112 S. Ct. 1735, 1746 (1992); *United States v. Shyne*, 2007 WL 1075035, at \*9 (S.D.N.Y. Apr. 5, 2007); *United States v. Urso*, 2006 WL 681204, at \*6 (E.D.N.Y. Mar. 16, 2006). Indeed, an indictment valid on its face may not be challenged even on the grounds that the grand jury heard evidence obtained in violation of a defendant's constitutional rights. *See United States v. Calandra*, 414 U.S. 338, 345, 94 S. Ct. 613, 618 (1974).

Because the grand jury has returned a new indictment that makes no reference to serious bodily injury, any alleged impropriety with respect to the grand jury proceedings leading to the issuance of S-4 is no longer relevant. Moreover, because the currently pending indictment, S-5, is valid on its face, there is no basis for judicial inquiry into the circumstances leading to its return. Accordingly, defendant's application for an order directing disclosure of unredacted minutes of grand jury proceedings is denied.

**SO ORDERED.**

/s/  
**STEVEN M. GOLD**  
**United States Magistrate Judge**

**Brooklyn, New York**  
**October 11, 2007**  
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